



David B. Cohen
Mayor

CITY OF NEWTON, MASSACHUSETTS

Department of Planning and Development
Michael J. Kruse, Director

Telephone
(617)-796-1120
Telefax
(617) 796-1142
E-mail
mkruse@ci.newton.ma.us

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Board of Aldermen Action Date:	September 7, 2004
90-Day Expiration Date:	September 27, 2004

TO: Board of Aldermen
Planning and Development Board

FROM: Michael Kruse, Director of Planning and Development

SUBJECT: PETITION #263-04 of ALD. GENTILE, SALVUCCI, and HARNEY for change of zone of 12 parcels on ALLEN PL., HICKS ST., PROSPECT PL, and WASHINGTON ST., from **Multi-Residence 1** to **Single Residence 1**. (*See Attachment A for list of parcels.*)

CC: Mayor David B. Cohen
Philip B. Herr, Chair, Comprehensive Planning Advisory Committee

The purpose of this memorandum is to provide the Board of Aldermen, Planning and Development Board, and the public with technical information and planning analysis which may be useful in the decision making process of the Planning and Development Board and Board of Aldermen. The Planning Department's intention is to provide a balanced view of the issues with the information it has at the time of the public hearing. There may be other information presented at or after the public hearing that the Zoning and Planning Committee of the Board of Aldermen will consider in its discussion at a subsequent working session. No vote to adopt any such proposed amendment shall be taken until a report with recommendations by the Planning and Development Board has been submitted to the Board of Aldermen, or twenty-one days after said hearing has elapsed without submission of such report.

BACKGROUND

This rezoning petition proposes to rezone 12 parcels currently owned by the Roman Catholic Archbishop of Boston, Corp., St. Bernard's Parish (hereafter Church) from Multi-Residence 1 to Single Residence 1. This initiative appears to be a response to the May 25 statement of Archbishop Sean O'Malley on "parish reconfiguration" that includes St. Bernard's Church on the list of church closings. *This church is an integral part of the greater West Newton neighborhood, and this petition represents an effort to save the church as an active parish.*

A. Zoning History

The first zoning references to the area under review appear in the City's 1922 Zoning Atlas, which indicates that the subject area was initially part of a large General Residence district abutted to the north by a Manufacturing zone, on the east and west by a business zone, and on the south by a Single Residence area. Residential uses allowed as of right in the General Residence district included single and two-family dwellings, apartment house, apartment hotel, tenement house, and boarding house along with farming uses while institutional uses such as a for profit hospital required a special permit.

In 1940, the Zoning Atlas designates the large "General Residence" zone as a "Private Residence" district which limited as of right residential uses to single and two-family dwellings, but allowed churches and certain non-profit schools. An association of persons living together in a common dwelling and certain institutional uses (hospital, trade school, museum, etc.) and various miscellaneous uses (farm, gravel business, cemetery chapel, etc.) were available subject to special permit. Subsequently in 1951, the Zoning Atlas continues to show the large "Private Residence" zone, while the business area adjacent on the east was classified as Business B, and the business area to the west (generally along Curve Street and including some adjacent properties) was largely reclassified to Residence D. The Manufacturing area to the north remained, while the large Single Residence zone to the south was designated Single Residence B.

In 1987 the zoning designations were changed from Private Residence to Multi-Residence 1, from Residence D to Multi-Residence 2, and from Single Residence B to Single Residence 2. For a comparison of current uses in the MR-1 and SR-1 zones see "***Attachment B***"- ***Summary of Uses in MR-1 and SR-1 Zones.***

B. Historic Assets

Several of the structures within the petitioned area may have historic value. Three were built prior to 1900 as follows: church – 1890, building at 1522 Washington Street – 1822, and the single-family home at 12 Allen Place 1890. In addition, the rectory was built in 1920. The petitioners have requested that the Newton Historical Commission should consider landmarking one or more of these properties pursuant to the City's Landmark Preservation Ordinance (Sec.22-90). When landmarked, a structure may not be demolished, nor its exterior altered without approval of the Newton Historical Commission. At its meeting on June 24, 2004, the Commission agreed to initiate the land-marking process for the church building and rectory.

In addition, inquiries will be made with the Massachusetts Historical Commission to ascertain whether some of these structures may be eligible for listing on the National Register of Historic Places. It is also noted that at present, any structure over 50 years of age is subject to Newton's Demolition Review Ordinance, which requires review of structures proposed for demolition or alteration and may result in the imposition of a demolition delay of up to one year.

I. ELEMENTS OF THE PETITION

This petition seeks to rezone 12 Church-owned lots (the "subject property") containing approximately 292,664 sq.ft. (6.72 acres) currently zoned Multi-Residence 1 to Single Residence 1. (See "***Attachment A***" – ***List of Parcels Proposed for Rezoning***) The petitioned area is well

developed, containing primarily church and school buildings along with adjacent and nearby parking on both sides of Washington Street. While the subject properties are located within a substantial MR-1 zone and are primarily institutional in character, the two vacant lots with parking only are located within a block comprised largely of existing single-family homes. (*See Attached Existing Land Use Map of subject property and neighborhood*) In fact, the Washington Street corridor west and south of the West Newton village center (and the MassTurnpike) is predominately single-family residential in character.

The existing Multi-Residence 1 zone that includes the subject property extends westward from Putnam Street, in West Newton along the MassTurnpike, which serves as the north boundary, to the junction of Grove, Central and Lexington Streets in Auburndale. (*See Attached Existing and Proposed Zoning Map of subject property and neighborhood*) Its southern boundary follows Central, Auburn, Greenough, and Washington Streets and along Myrtle Street for approximately 1 ½ blocks. Thereafter heading easterly, the boundary follows rear and side lot lines until reaching and following Westview Terrace for a short distance, then continuing along side lot lines until the corner of Putnam and Winthrop Streets. To the south of this MR-1 zone is a large Single Residence 2 zone, and a limited Multi-Residence 2 zone encompassed by a Public Use zone containing Warren Playground. Another Public Use zone is located adjacent to the MassTurnpike, and contains the City's Parks and Recreation Department office, yard, and buffer area. A limited Multi-Residence 2 zone, surrounded by the subject MR-1 zone is located along both sides of a segment of Curve Street and also abuts Church property on Prospect Street. Sandwiched between the MassTurnpike, Simms Court and Washington Street is a small Business- 2 zone, consisting of 3 properties remaining after the construction of the West Newton interchange.

The northern part of the petitioned area (north and west of Washington Street) has become an area primarily devoted to institutional uses and is dominated by the church, rectory, and institutional buildings rented out to the Learning Prep School along with extensive parking areas. In addition, the Church rents out the small single-family home at 12 Allen Place, the only single family house among the properties subject to this petition, and in addition rents its parking area at 1487 Washington Street to an abutting funeral home. Across Washington Street to the south (and east) is a Church-owned property with a large structure (and a large parking area) also rented to the Learning Prep School. Two other large Church-owned parcels which are vacant and in use as a parking area are located nearby.

II. ANALYSIS

At present, 11 of the 12 lots meet pre-1953 lot area and frontage requirements, and 8 of the 12 lots meet post-1953 lot area and frontage requirements of the existing MR-1 zone. This compares with only 4 lots meeting pre-1953 lot area and frontage requirements and only 3 lots, which would meet post-1953 lot area and frontage requirements if rezoned to SR-1. Without subdivision of the larger lots, and under current MR-1 zoning, the subject area could hypothetically support 10 two-family dwellings with the potential for 20 units, or 18 units more than currently. An additional estimated 17 units may be possible should the three largest lots having sufficient lot area and frontage be subdivided.

Summary of Development Potential						
Location	Exist. lots	Exist. units	As is 2F potential (new units)	Add. 2F potential w/subdiv. (new units)	Max. Att DU potential ⁴ (new units)	Max. SF potential (new units)
			MR-1			SR-1
Church lot ¹	1		N/A	N/A	N/A	N/A
School lots ²	4		8	10 ⁵	21	2
Back pkg lots	2		4		0	0
Other lots ³	2	1	3		0	0
Rectory lot	1	1	1	7	10	0
So. parking lots	2		4		14	0
Totals	12	2	20	17	45	2
Non-school use lots only⁶	7	2	12	7	24	0

Footnotes:

¹Lot containing church building. Assumes no redevelopment.

²Lots used by Learning Prep School – 3 on north side; 1 on south side of Washington Street. Assumes redevelopment possible (but not likely).

³Allen Pl. and Simms Ct. lots

⁴Requires special permit.

⁵Reflects hypothetical subdivision of property at 1505 and 1522 Washington Street into additional lots based on lot area and frontage requirements for MR-1 post-1953 lots and development of 2F dwellings.

⁶Assumes school use continues and only non-school lots are redeveloped.

It should be noted that the above numbers include the parcels currently used for school purposes, *which are apparently under rental agreement until 2014*, and are not likely to cease operations until some time in the future, if at all. Learning Prep School (formerly known as Little Peoples School) has utilized Church-owned buildings and property since the 1970s. Considering only non-school and non-church parcels reduces potential development considerably. Under current MR-1 zoning, approximately 6 two-family dwellings providing 12 units plus an 7 additional units may be possible with conversion of the rectory to a 2F dwelling and subdivision of the rectory parcel into 3 additional new lots generating 6 dwelling units.

In addition, current zoning allows development of attached dwelling units, subject to grant of a special permit by the Board of Aldermen. Overall, approximately 45 additional attached dwelling units are theoretically possible, if all properties meeting Section 30-15, Table 1, and Section 30-9(b)(5) dimensional requirements were either developed or redeveloped. Again, however, a more conservative figure is derived when excluding parcels in school use, and considering only the large parking area on the south side of Washington Street, and the rectory parcel. A maximum of 24 attached dwelling units is hypothetically possible based on lot size and the lot area per unit minimum of 4,000 sq. ft., provided other development requirements are satisfied.

The proposed change in zoning to SR-1 will preclude the development of two-family structures as of right, as well as attached dwellings subject to special permit in this MR-1 zone.

Assuming only the non-school parcels are likely to be developed over the next decade, this would extinguish the potential for creating an additional 12 – 19 as of right 2F units, including on the rectory parcel. In addition, taking into account the potential for development of 24 attached dwellings on three non-school use lots, a net 31 units, (consisting of 7 two-family units and 24 attached dwelling units) otherwise possible under current MR-1 zoning would be precluded from development.

Under SR-1 zoning lot area and frontage requirements, no new single family homes would be possible without demolition of either the existing school structures, or conversion of the rectory parcel to a single family dwelling. Only three properties (2 school parcels and rectory parcel) have sufficient frontage, but not sufficient lot area, for further subdivision. As a result, development potential for new SF homes would be –0– in the foreseeable future.

Although a significant consequence of the proposed rezoning will be to reduce the possible future development of 2F housing, arguably higher density housing in this part of the City should be north of the MassTurnpike and adjacent to the Business zones in the West Newton village center. The Washington Street (Route 16) corridor south and west of the MassTurnpike is already heavily trafficked. A more intensive redevelopment of the subject property, as currently zoned, may adversely affect the character of this street which is predominately single-family residential.

In April 2001, the Board of Aldermen endorsed *A Framework for Newton's Planning*, which suggests that we must find ways to enhance our village centers. The MassTurnpike has forever defined the south edge of the West Newton village center. A rezoning of the subject property would encourage developers of multi-family dwellings to look for opportunities on the north side of the MassTurnpike, in and around that village center.

III. CONCLUSION

The proposed rezoning of 12 lots from the current MR-1 zone to SR-1 appears to be brought forward primarily in reaction to the proposed closing of St. Bernard's Church by the Archdiocese. As discussed above, if approved, this action will eliminate opportunities for development of 2F housing and attached dwelling units on the subject property. *The decision to rezone the subject property is a difficult one, as the City's Zoning Ordinance offers no standards for zoning amendments, and Chapter 40A, Section 5 of the Massachusetts General Laws only states the "procedure" for a change of zoning.*

In making its recommendation to the full Board of Aldermen, the Zoning and Planning Committee should consider the existing uses and zoning of nearby properties and the extent to which the existing zoning and/or proposed zoning promotes the general health, safety, and welfare of the citizenry of the City of Newton.

The Planning Department believes that rezoning the subject property from Multi Residence to Single Residence would generally be consistent with existing uses along the Washington Street corridor (south and west of the MassTurnpike) and would promote the general health, safety, and welfare of the citizenry, as it would encourage developers of multi-family dwellings to look for opportunities on the north side of the MassTurnpike, in and around the West Newton village center.

In the final analysis, the Board of Aldermen will have to weigh certain core values of the City and planning principles, along with other policy considerations in its decision on this docket item.

ATTACHMENTS

Attachment A – List of parcels proposed for rezoning

Attachment B – Summary of Uses in MR-1 and SR-1 Zones

Existing Land Use Map

Existing Zoning Map

Proposed Zoning Map

ATTACHMENT A: LIST OF PARCELS PROPOSED FOR REZONING

Rezone the following properties from Multi Residence 1 to Single Residence 1:

#	SBL	LOT AREA (sq. ft.)
<u>ALLEN PLACE</u>		
12	33-04-02 .	14, 830
<u>HICKS STREET</u>		
00	33-04-08	9,246 (back parking lot)
<u>PROSPECT PLACE</u>		
24	33-04-06	7,014 (back parking lot)
25	33-04-07	17,844
<u>WASHINGTON STREET</u>		
1487	33-04-01	14,830
1497	33-04-03	12,526
1505	33-04-04	49,749
1515	33-04-05	26,008
1522	32-17-01	39,188
1529	33-03-11	41,457
00	32-12-25	16,337 (parking lot)
00	32-12-26	43,635 (parking lot)

ATTACHMENT B: SUMMARY OF USES IN MR-1 and SR-1 ZONES¹

Action	MR-1 zone	SR-1 zone	Notes
Build a new 1F home	Allowed	Allowed	As of right
Build a new 2F home	Allowed	Not allowed	As of right where allowed
Build an addition to existing home	Allowed	Allowed	As of right
Build an additional unit in existing home	Allowed in existing 1F	Not allowed	As of right where allowed
Build an accessory apartment	Requires special permit	Allowed	Accessory apt. Rules apply. In SR zones acc. aptmnts. larger than 1000 sq. ft. need a special permit.
Alter a legally nonconforming home	May need a special permit	May need a special permit	Modest alterations meeting <i>de minimis</i> rules are allowed as of right. Others require a special permit.
Build an accessory structure (shed, garage)	Allowed	Allowed	Accessory structure rules apply.
Lodgers	Up to 3 allowed	Up to 3 allowed	As of right
Rooming house	Requires a special permit	Not allowed	Applies to dwelling occupied by 4 or more lodgers
Clustered single family dwellings.	Not allowed	Requires a special permit	Provisions of Section 30-15(k) apply.
Home business	Requires a special permit	May need a special permit	Home business rules apply. In SR zones, home businesses using more than 30% of ground floor area need a special permit.
Association of persons; congregate living facil.	Not allowed	Requires a special permit	
Hospital, convalescent home or like institution	Requires a special permit	Requires a special permit	
Library, museum or other cultural institution.	Requires a special permit	Requires a special permit	Non-profit or philanthropic institutions serving general welfare of City allowed in MR-1

¹Summary includes primarily residential and selected non-residential uses. For complete listing see Sections 30-8, and 30-9.

General notes:

- All projects need to meet the applicable dimensional controls for their zone, such as setbacks, lot coverage, open space, height, stories, etc.
- A Special Permit involves a public hearing and requires approval from the Board of Aldermen.
- Legally nonconforming homes are those which do not meet current dimensional requirements due to a valid reason, such as having been built before zoning was adopted in the City, or having been built or altered while the lot had a different zoning classification at a previous time.